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| Notice of Allowability | Application No. | Applicant(s) | |
|-------------------------------|----------------------------|---------------------|--|
| | 10/538,211 | KORST ET AL. | |
| | Examiner Hashem Farrokh | Art Unit 2187 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 6/9/05.
2. The allowed claim(s) is/are 1-20.
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of
Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date <u>6/9/05</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

PART I THE EXAMINER'S EVALUATION OF THE APPLICATION

SECTION A RELAVANT ART CITED BY THE EXAMINER

1. U. S. Patent No. 5,802,394 A to Baird et al. describes Method for accessing one or more streams in a video storage system using multiple queues and maintaining continuity thereof.
2. U. S. Patent No. 5,586,264 A to Belknap et al. describes Video optimized media streamer with cache management.
3. U. S. Patent No. 6,496,899 B1to DeMoney describes Disk scheduling system with bounded request reordering.

SECTION B DISTINGUISHING FEATURES RECITED IN THE CLAIMS

The following is an Examiner's Statement of Reasons for Allowance See
MPEP 1302.14

4. The primary reasons for allowance of independent claims 1-18 in the instant application is the combination with the inclusion of following limitations: starting a breathing cycle; (c) determining if one of the following becomes true before the end of P time units: (i) a number of real-time requests is at least a predetermined threshold based on a number of data streams and performance parameters of the storage device; and (ii) a number of pending requests for any single stream becomes more than one; (d) if at least one of (i) and (ii) remain true during the duration of P time units from the start of the breathing cycle, starting a subsequent breathing cycle after completion of the breathing cycle; and (e) if

both of (i) and (ii) are not true during the duration of P time units from the start of the breathing cycle, waiting P time units from the start of the breathing cycle before starting the subsequent breathing cycle.

5. *The primary reasons for allowance of independent claim 19 in the instant application is the combination with the inclusion of following limitations:* starting a breathing cycle; (c) determining if one of the following becomes true before the end of P time units: (i) a number of real-time requests is at least a predetermined threshold based on a number of data streams and performance parameters of the storage device; and (ii) a number of pending requests for any single stream becomes more than one; (d) if at least one of (i) and (ii) remain true during the duration of P time units from the start of the breathing cycle, starting a subsequent breathing cycle after completion of the breathing cycle; and (e) if both of (i) and (ii) are not true during the duration of P time units from the start of the breathing cycle, waiting P time units from the start of the breathing cycle before starting the subsequent breathing cycle.

6. *The primary reasons for allowance of independent claim 20 in the instant application is the combination with the inclusion of following limitations:* b) computer readable program code means for starting a breathing cycle; (c) computer readable program code means for determining if one of the following becomes true before the end of P time units: (i) a number of real-time requests is at least a predetermined threshold based on a number of data streams and performance parameters of the storage device; and (ii) a number of pending requests for any

single stream becomes more than one; (d) computer readable program code means for if at least one of (i) and (ii) remain true during the duration of P time units from the start of the breathing cycle, starting a subsequent breathing cycle after completion of the breathing cycle; and (e) computer readable program code means for if both of (i) and (ii) are not true during the duration of P time units from the start of the breathing cycle, waiting P time units from the start of the breathing cycle before starting the subsequent breathing cycle.

The prior art of record including the disclosures of Baird et al. (5,802,394 A), Belknap et al. (5,586,264 A), and DeMoney (6,496,899 B1) neither anticipates nor renders obvious the above recited combination.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays should be clearly labeled "Comments on Statement of Reasons for Allowance"

PART II THE ATTENTION OF FUTURE CORRESPONDENT

Any inquiry concerning this communication should be directed to Hashem Farrokh whose telephone number is (571) 272-4193. The examiner can normally be reached Monday-Friday from 8:00 AM to 5:00 PM.

If attempt to reach the above noted Examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Donald A Sparks, can be reached on (571) 272-4201. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

Art Unit: 2187

application may be obtained from either private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBS) at 866-217-9197 (toll-free).

HF

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2007-08-23

*Brian R. Peugh
Primary Examiner*

9/4/07